

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

WALLACE IRVING PERRY,

CV. 07-816-HU

Petitioner,

ORDER

v.

DON MILLS, Assistant
Superintendent, Eastern Oregon
Correctional Institution,

Respondent.

BROWN, Judge

Petitioner's motion to voluntarily dismiss (#29) is GRANTED.
IT IS ORDERED that petitioner's petition for writ of habeas corpus
(#2) is DISMISSED WITHOUT PREJUDICE.

In the event that the decision in *Blakely v. Washington*, 542
U.S. 296 (2004), is later made retroactive to cases on collateral
review, petitioner has leave to reopen this case only as to the
Blakely issues, and the limitations period shall be deemed tolled
from the date this Order is signed until sixty (60) days after the
date of the decision rendering *Blakely* retroactively applicable.
If *Blakely* is made retroactive and the petitioner moves to reopen

this case during the above-referenced 60-day period, petitioner may also amend the petition as of right so as to properly plead all *Blakely* based claims in this Court.

IT IS SO ORDERED.

DATED this 19th day of August, 2008.

/s/ Anna J. Brown
Anna J. Brown
United States District Judge